Attorney General's Office

Under Montana law, the attorney general is the state's chief legal officer, chief law enforcement officer

Division of Criminal Investigation

Division of Criminal Investigation (DCI) agents specialize in a number of fields. At the request of, state law enforcement agencies, DCI assists in cases including, but not limited to:

corruption and official misconduct

 Section 6. Self-government powers. A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter

ATTORNEY GENERAL STATE OF MONTANA

Steve Bullock Attorney General

December 1, 2010



Department of Justice 215 North Sanders PO Box 201401 Helena; MT 59620-1401

Mr. Kevin Nelson P.O. Box 23107 Billings, MT 59104-3107

Re: Expenditure of Tax Increment Financing Funds in Billings

Dear Mr. Nelson:

The Attorney General has asked that I respond to your letter, which you hand-delivered to this office, regarding what you assert to be the misuse of Tax Increment Financing District ("TIFD") funds in Billings. I was the staff attorney that spoke to you when you previously stopped by the office to present these concerns, and that recently spoke to you again on the phone. I apologize, again, for the delay in responding.

You raise several concerns regarding the operation of the TIFD, including issues of conflict of interest and alleged misuse of TIF funds. As I explained on the phone, this office does not have jurisdiction to regulate or investigate the general conduct of local government agencies. Our Constitution grants local agencies a great deal of power without direct oversight by the State, especially concerning self-governing entities such as the City of Billings. Further, formal opinions of the Attorney General may only be rendered upon request of those public officials designated in Mont. Code. Ann. § 2-1-501(7), and then only in regards to questions of law that relate to their respective offices. The Attorney General is also limited to representing public agencies, and therefore cannot advise or represent citizens in legal matters.

You may wish to discuss this matter further with the Billings City Attorney or the Yellowstone County Attorney. You may also wish to contact a private attorney who will be able to analyze whether you have any other remedies at law.

I am sorry this office cannot be of direct help.

Sincerely

J. STUART SEGREST Assistant Attorney General

jss/bjh



vebsite

733

TR

I



FROM THE DESK OF . . . Bruce McCandless

Assistant City Administrator

PO Box 1178
Billings, MT 59103
(406) 657-8222 Fax (406) 657-8390
Email: mccandlessb@ci.billings.mt.us

July 22, 2011

TO:

Tina Volek, City Administrator

SUBJECT:

N. 27th Street Tax Increment District Tax Year 2010 Revenue

As reported to the City Council, the MT Department of Revenue (DOR) has twice revised the amount of tax increment for the N. 27th Street Tax Increment District (TID). DOR announced the first change in mid-June and based on a substantially lower incremental taxable value, the Finance Division calculated that the TID would produce approximately \$800,000 of increment versus the previously estimated \$1,900,000. I reported that to the Council on July 5. On July 18, the DOR again revised the incremental taxable value and based on that amount, the total will be approximately \$1,700,000, including personal property tax. If the County collects the known delinquencies and if protested taxes are decided in the City's favor, the total could be \$1,800,000.

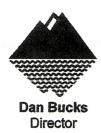
Attached is a July 18, 2011 letter from the regional office of the DOR. In the 4th and 6th paragraphs (bottom of pg 1 and middle of pg 2), DOR admits that the June errors were caused by miscalculations of centrally assessed and real property values. The explanations and the results are confusing, so I'll try to give a simpler explanation.

The <u>centrally assessed</u> property error occurred when the DOR failed to enter in its computer system a base taxable value for the utility, railroad, etc. property in the TID. That caused all of the taxable value to be reported as increment. When the DOR discovered that error, it initially told the City that none of the value was increment and that caused a \$600,000 tax loss. In the second revision, the DOR recognized that a lot of the value was in fact an increase compared to 2008-2009 and therefore, it re-added that increment. There are centrally assessed property protests, but only about \$90,000 is in the N. 27th TID.

The DOR's first revision of the <u>real property</u> incremental value reduced TID taxes by about \$500,000. When the City challenged the DOR's values, it discovered that it had applied an incorrect multiplier to all of the district's real property. The same error was made in the South Billings Blvd TID but not in the East TID. The DOR corrected that factor and the result increased tax increment to almost the same amount as originally estimated.

DOR admits that the local office made the errors and says that it has established procedures that will prevent future mistakes of this kind. The City and County Finance Departments spent most of this week reallocating the taxes among the taxing jurisdictions and the TID. On Thursday, the City received a payment from Yellowstone County that brings the FY 2011 tax receipt to almost \$1,700,000. This payment balanced TID Fund 203 and it will have a FY 2011 ending balance of approximately \$120,000. This makes the loan from the General Fund to Fund 203 unnecessary and I request that the Council indefinitely table item #1.F. on the July 25 City Council meeting agenda.

Please let me know if you or Councilmembers need additional information.



Montana Department of Revenue



July 18, 2011

City of Billings Bruce McCandless 210 N 27th St PO BOX 1178 Billings MT 59103

Dear Mr. McCandless:

To address the concerns from your letter of July 7, 2011, I will provide you with some additional detail.

15-10-202. Certification of taxable values. (1) Subject to subsection (2), by the first Monday in August, the department shall certify to each taxing authority the total taxable value within the jurisdiction of the taxing authority. The department shall also send to each taxing authority a written statement of its best estimate of the total taxable value of newly taxable property, as described in 15-10-420...

A taxing authority is a unit of government that has the ability to levy taxes. On each of the Certified Taxable Value forms that are submitted to each of the taxing authorities within the county, the Department "reports" the calculated increment amount that may affect that taxing body. In short, we are providing the required information you are referring to in 7-15-4285 MCA, and ARM 42.19.1408.

I am enclosing a list of any properties that filed a protest of their value at the local level, County Tax Appeal level or State Tax Appeal level that have not been finalized for your review.

You also questioned the errors regarding the Centrally Assessed properties. The way the TIFD are allocated in the County's CSA system, a base value must be entered in the system greater than \$1, in order for the global update to pick up and apply the appropriate percentages to the base and the TIFD. There were a handful of these Centrally Assessed properties that did not get a base value of greater than \$1 entered, therefore, the entire taxable value was viewed by the computer system as incremental and dispersed to the TIFD. These have been corrected and sent to the Treasurer's Office for re-allocation.

Protested Utility properties that are still active as of today include:

E00254	2	Bresnan Broadband	\$2,663,481.48
E00261	2	Verizon Wireless	\$360,520.00
E00261F	23	Verizon Wireless	\$22,742.00
E00261K	2T3A	Celloco Partnership (Verizon Wireless)	\$22,908.00
E00264	2	WWC Holdings Co (Alltel)	\$171,167.27
E00264A	2T3A	WWC Holdings Co (Alltel)	\$17,979.31
E00264F	23	WWC Holdings Co (Alltel)	\$10,739.73

Because we also had growing concerns that the amount the Increment Districts were receiving was less than originally, reported, even after consideration of the adjustments made due to the Property Tax Appeal Process, we reviewed our records and recalculated the percent increases for each of the districts. During this review, we found that when calculating the percent increase to the Increment district for Real Property taxes, we only calculated the percentage based on the Real Property Values. We should have also included the Centrally Assessed values as they are billed with Real Property.

The attached spreadsheet will show that for the 2008 Expanded N 27th Street Urban Renewal Area, the calculated percentage should have been 57% to the base, 43% to the TIFD. At the time of billing, we were only allocating 13% to the TIFD. The impact to this TIFD is \$1,047,268.53 in tax dollars.

The South Billings Blvd Urban Renewal District also saw a miscalculation. The percentages should have been allocated 64% to the base, 36% to the TIFD. At the time of billing, we allocated 25% to the TIFD. This district didn't experience the same size of a difference, but still results in a \$399,250.98 loss in tax dollars.

This error was made at the local DOR level, for 2010 only. The percentages for 2009 were calculated correctly. The Department deeply regrets that the error occurred and will put additional measures in place to ensure it does not happen in the future.

We will be discussing the percentage difference issue with the County and City to determine what needs to be done to fix this problem for the 2010 tax year, now that we have identified the issue. Once a final decision has been made, we will be able to move forward with correcting the allocations between the levy districts.

Sincerely,

Montana Department of Revenue Larry Richards, Regional Manager

Robin Rude, Area Manager, Yellowstone County

175 N 27th St Ste 1400 Billings, MT 59101-2089



Montana Department of Revenue



February 23, 2015

Kevin Nelson PO Box 23107 Billings, MT 59104

Mr. Nelson,

This is a follow up to our conversation last week regarding TIF in the Billings downtown. I asked our local office to provide a historical view of the TIF with the new Federal Courthouse, which is shown below.

				Increment					
		Base Year	Base Value	2009	2010	2011	2012	2013	2014
N 27th St TIFD	2T3	2000	783,431	303,401	245,214	251,192	365,621	384,760	582,519
									-
2008 Exp N 27th St TIFD	2T3A	2008	3,328,807	510,265	2,741,273	2,646,972	2.598,300	2,768,346	2,484,348

Federal Courthouse Tax Code: A33796

The New federal courthouse splits levy districts. Approx. half of its value is in 2T3 and the other half in 2T3A, both TIF districts.

The courthouse was built in 2011 and is 100% exempt. The property did carry a taxable value that contributed to the base in 2008 when it was an MDU building Other contributors to the increase from 2009 to 2010 were:

Several Utility companies allocated more value to these districts, AT&T Mobility, AT&T Communications and Qwest contributed almost \$1.3 mill. First Interstate Bank saw growth

- Northern Hotel started undergoing renovations
- CTA Architects renovated an old building Montana Brewing Company went through renovations

All of these projects that contributed to the increment are typical types of growth when TIF districts get created.

I hope this is helpful. If you have additional questions I'd encourage you to contact Robin Rude in the Billings office.

Sincerely,

Mike Kadas

c. Sen. Arntzen Robin Rude

MI Kalos



ommissioners

Departments

Contacts

Site Map Home

Disclaimer: Not all fields are currently maintained. The accuracy of the data is not guaranteed. Please notify the Appraisal/Assessment Office of any inaccuracies.

Back to Search Form

Full Orion Detail

Owner Information

*Please Note: Owner information is supplied by the Montana Department of Revenue. To request updates to addresses or other ownership information, please contact the DOR office at 896-4000. Records for the current year will not be updated after tax bills have been sent out, so changes requested after you receive your bill will appear only on next year's records.

Tax ID: A00795

Primary Party

Primary Owner Name: ZOOTIST HOTEL LLC

2015 Mailing Address: ZOOTIST HOTEL LLC

555 ZOOT ENTERPRISE LN BOZEMAN, MT 59718-8128

Property Address: 19 N BROADWAY

Township: 01 S Range: 26 E Section: 03

Subdivision: BILLINGS ORIGINAL TOWNSITE Block: 109 Lot: 13

BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK Full Legal:

109, Lot 13 - 18

GeoCode: 03-0927-03-2-40-10-0000

Show on Map (May not work for some newer properties.)

Property Assessment Information

Levy District: 2008 EXPANDED N 27 ST URB Levy District: 2008 EXPANDED N 27TH URBA

Assessed Value Summary

Assessed Land Value = \$ 667,100.00

Assessed Building(s) Value = \$ 9,938,600.00

Total Assessed Value = \$ 10,605,700.00

Assessed Value Detail Tax Year: 2015

Class Code

Amount

2207 - Commercial City or Town Lots = \$

667,100.00

3507 - Improvements on Commercial City or Town Lots = \$ 9,938,600.00

Total =\$ 10,605,700.00

The values shown for the given tax year are for taxation purposes only. They are supplied by the Department of Revenue. For questions about these values, please contact the Montana Department of Revenue, Appraisal/Assessment Office at 406-896-4000.

Rural SID Payoff Information

NONE **Property Tax Billing History**

Year	1st Half	2nd Half	Total
2000	18,099.96 P	18,099.96 P	36,199.92
<u>2001</u>	22,343.05 P	22,277.37 P	44,620.42
2002	22,691.02 P	22,522.21 P	45,213.23
<u>2003</u>	29,843.90 P	29,792.05 P	59,635.95
<u>2004</u>	34,743.61 P	34,681.57 P	69,425.18
<u>2005</u>	0.00	16,138.15 P	16,138.15
<u>2005</u>	50.00 P	0.00	50.00
<u>2005</u>	45,062.45 P	0.00 P	45,062.45
<u>2006</u>	31,261.65 P	31,209.80 P	62,471.45
<u>2007</u>	32,939.96 P	32,888.11 P	65,828.07
<u>2008</u>	32,529.49 P	32,477.75 P	65,007.24
2009	26,104.93 P	26,042.73 P	52,147.66
<u>2010</u>	24,590.42 P	24,538.56 P	49,128.98
2011	23,727.02 P	23,675.25 P	47,402.27
2012	21,884.85 P	21,884.83 P	43,769.68
<u>2013</u>	0.00	80,653.51 P	80,653.51
<u>2013</u>	67,480.27 P	0.00 P	67,480.27
<u>2014</u>	0.00	111,091.03 P	111,091.03
<u>2014</u>	100,903.17 P	0.00 P	100,903.17
	(P) indica	ates paid taxes	

Click on year for detail. Pay Taxes Online

Jurisdictional Information

Commissioner Dist: 2 - <u>James Reno (R)</u>

School Attendance Areas

Senate: 24 - <u>Mary McNally (D)</u>
School Attendance
High: SENIOR

House: 47 - Katharin A. Kelker (D) Middle: LEWIS & CLARK

Ward: 1 (BILLINGS)

Elem: MCKINLEY

Brent Cromley

Mike Yakawich

Precinct: 47.1

Zoning: Central Business District

Click Here to view Billings

Regulations

Click Here to view Laurel SD 2 Trustee District #1 List of Trustees

Regulations

Click Here to view

Broadview Regulations

Any comments or questions regarding the web site may be directed to the webmistress.



Detail Property Tax Information

Disclaimer: The tax information was updated on 9/19/2015. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. Pay Taxes Online

Tax ID: A00795 Tax Year: 2009 2008 EXPANDED N 27 ST URB

Code	District	1st Half	2nd Half	Total
	2008 EXPANDED N 27 ST URB (Levy District)	14,720.66 P	14,720.64 P	29,441.30
1346	1346 BLGS N BRDWY STREETSCAPE		2,503.58 P	
2T3A	2008 EXPANDED N 27 ST URB		1,988.15 P	•
4013	4013 BLGS PARK MAINT	615.69 P		-
BACF	BACF BLGS ARTERIAL CONST FEE	147.74 P	147.74 P	295.48
BFHS	BFHS BLGS FIRE HYD REAL	530.35 P	530.35 P	1,060.70
BID1	Business Improv Dist 1	2,470.06 P	2,470.06 P	4,940.12
BLGB	BLGB BILLINGS GARBAGE	1,513.50 P	1,513.50 P	3,027.00
BLSW	BLSW BILLINGS STORM SEWER	132.72 P	132.72 P	265.44
BS#1	BS#1 BLGS STREET MAINT #1	408.37 P	408.37 P	816.74
L097	0097 BLGS LIGHT MAINT	992.63 P	992.63 P	1,985.26
TIDU	TIDU TID - UNIVERSITY MILLAGE	19.32 P	19.30 P	38.62
	Totals	26,104.93	26,042.73	52,147.66
		11/27/2009		

Close Window



Commissioners

Departments

Contacts

Site Map

Home

Detail Property Tax Information

Disclaimer: The tax information was updated on 9/19/2015. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. Pay Taxes Online

Tax ID: A00795 Tax Year: 2010 2008 EXPANDED N 27 ST URB

Code	District	1st Half	2nd Half	Total
	2008 EXPANDED N 27 ST URB (Levy District)) 13,719.29 P	13,719.29 P	27,438.58
1346	1346 BLGS N BRDWY STREETSCAPE		2,400.00 P	
2T3A	2008 EXPANDED N 27 ST URB	2,030.72 P	2,030.71 P	4,061.43
4013	4013 BLGS PARK MAINT	615.69 P	615.69 P	1,231.38
BACF	BACF BLGS ARTERIAL CONST FEE	151.41 P		•
BFHS	BFHS BLGS FIRE HYD REAL	312.97 P	312.97 P	
BID1	Business Improv Dist 1	2,164.45 P	2,164.45 P	4,328.90
BLGB	BLGB BILLINGS GARBAGE	1,653.00 P	1,653.00 P	
BLSW	BLSW BILLINGS STORM SEWER	132.72 P	132.72 P	
BS#1	BS#1 BLGS STREET MAINT #1	418.57 P	418.57 P	837.14
L097	0097 BLGS LIGHT MAINT	920.55 P	920.55 P	1,841.10
TIDU	TIDU TID - UNIVERSITY MILLAGE	19.21 P		
	Totals	24,590.42		
		11/19/2010		,== 3.2 3

Close Window



Detail Property Tax Information

Disclaimer: The tax information was updated on 9/19/2015. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. Pay Taxes Online

Tax ID: A00795 Tax Year: 2011 2008 EXPANDED N 27 ST URB

Code	District	1st Half	2nd Half	Total
	2008 EXPANDED N 27 ST URB (Levy Distr	ict) 8,206.84 P	8,206.83 P	16,413.67
1346	1346 BLGS N BRDWY STREETSCAPE	2,337.88 P	2,286.13 P	4,624.01
2T3A	2008 EXPANDED N 27 ST URB	6,651.70 P	6,651.69 P	13,303.39
4013	4013 BLGS PARK MAINT	615.69 P	615.69 P	1,231.38
BACF	BACF BLGS ARTERIAL CONST FEE	155.19 P	155.19 P	310.38
BFHS	BFHS BLGS FIRE HYD REAL	167.87 P	167.87 P	335.74
BID1	Business Improv Dist 1	2,154.59 P	2,154.59 P	4,309.18
BLGB	BLGB BILLINGS GARBAGE	1,731.50 P	1,731.50 P	3,463.00
BLSW	BLSW BILLINGS STORM SEWER	136.08 P	136.08 P	272.16
BS#1	BS#1 BLGS STREET MAINT #1	591.81 P	591.81 P	1,183.62
L097	0097 BLGS LIGHT MAINT	914.71 P	914.71 P	1,829.42
TIDU	TIDU TID - UNIVERSITY MILLAGE	63.16 P	63.16 P	126.32
	Tot	als 23,727.02	23,675.25	47,402.27
	Date P	aid 11/18/2011	05/04/2012	

Close Window



South Billings Blvd. Urban Renewal Association

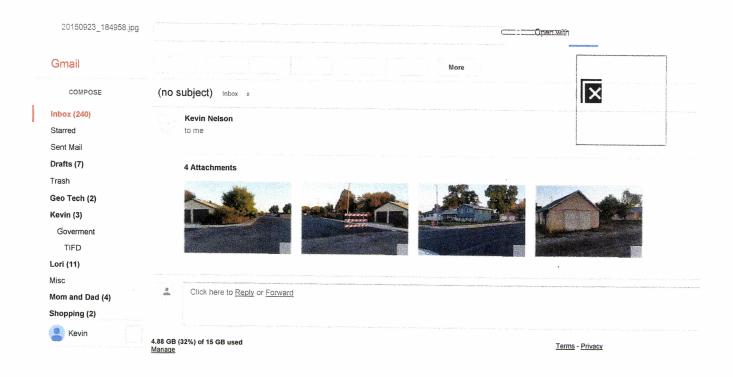
7. Steve Zeier Consulting:

Page | 2

- a. New restaurant concept location in the Popelka Commerce Center subdivision. TIF application possible for this project.
- **b.** Shoot the Moon owns Chilies submitted a request to locate.
- c. High Mark Traffic Project behind Parkway Truck Stop.
- d. Family Dollar Demolition completed.
- e. Regularly trying to communicate to sell properties.

8. Development of Land with SID1385 / Board Action

- a. SID1385 distracts buyers from considering purchase of the property.
- **b.** To develop the property and generate TIF funds. Options SUBRA to bond the property and pay off the SID to allow development of business.
- c. Bob Popelka decided to sell based on the SID attached.
- **d.** Property owners city, City Finance and the SUBRA board agreed to discuss the SID bond formally. Discussion includes repayment of the SID.
- e. Providing TIF dollars could increase the TIF increment.
- f. TIF bond to include construction on Hillview and Midland.
- The bond will extend the life of the district allowing more projects to apply for TIF funds.
- h. Board action to move forward with the bond and terms to payback.
- 9. Meeting Adjourned: Next Meeting Scheduled July 2, 2014.



No Hangouts Contacts
Find someone

t of 4 hams

Montana Code Annotated 2014

Previous Section MCA Contents Part Contents Search Help Next Section

- 7-15-4239. Control of conflict of interest. (1) (a) A public official, employee of a municipality or urban renewal agency, or department or officers that have been vested by a municipality with urban renewal project powers and responsibilities under 7-15-4231 may not voluntarily acquire any interest, direct or indirect, in any urban renewal project, in any property included or planned to be included in any urban renewal project of the municipality, or in any contract or proposed contract in connection with an urban renewal project.
- (b) When an acquisition is not voluntary, the interest acquired must be immediately disclosed in writing to the local governing body, and the disclosure must be entered upon the minutes of the governing body.
- (2) If an official or department or division head owns or controls or owned or controlled within 2 years prior to the date of hearing on the urban renewal project any interest, direct or indirect, in any property that the person knows is included in an urban renewal project, the person shall immediately disclose this fact in writing to the local governing body, and the disclosure must be entered upon the minutes of the governing body. An official or a department or division head may not participate in any action on that particular project by the municipality or urban renewal agency, department, or officers that have been vested with urban renewal project powers by the municipality pursuant to the provisions of 7-15-4231.

History: En. Sec. 18, Ch. 195, L. 1959; R.C.M. 1947, 11-3918(part); amd. Sec. 616, Ch. 61, L. 2007.

Provided by Montana Legislative Services

May 4, 2015

Montana Dept. Revenue Michele Crepeau PO Box 7701 Helena Mt. 59604 mcrepeau@mt.gov

Ms. Crepeau

I would appear to me that the application from Billings MT. for there expansion of the East End TIF district, that you are in reviewing, is in violation of certain Montana statutes and the Montana constitution. I would ask that you reject this application until the following concerns have been addressed

1. In the application by the City of Billings, I failed to find any documentation that addressed this requirement?

Does the DOR have Administrative Rules for this requirement?

7-15-4282. Authorization for tax increment financing.

- (2) The tax increment financing provision must take into account the effect on the county and school districts that include local government territory.
- 2. In the Documents presented by the City of Billings I failed to find any support for: MCA 7-15-4284. Filing of tax increment provisions plan or district ordinance.
 (2) A certified copy of each plan, ordinance, or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies.
 To comply with this provision there must be a copy of the mailing included in the plan, application or some writing to verify that it has been satisfied?
- 3. If you approve this TIF application, it would appear that the diversion of the transportation mills would be in violation of this Attorney General Opinion?
 - Montana Attorney General Steve Bullock Volume No. 54 Opinion No. 6 Held: "Property taxes levied to support...transportation...A transfer of property taxes for any other purpose is invalid".
- 4. The DOR has the obligation to follow the law. But the issue is which law, I am aware that TIF law require that all mills except for university mills be diverted into the TIF, also the laws MCA 20-9-331, 20-9-333, 20-9-360 require MUST. The DOR has the obligation to determine which **must** prevails?

20-9-309. Basic system of free quality public elementary and secondary schools defined -identifying educationally relevant factors -- establishment of funding formula and
budgetary structure -- legislative review. (1) Pursuant to Article X, section 1, of the Montana
constitution, the legislature is required to provide a basic system of free quality public
elementary and secondary schools throughout the state of Montana that will guarantee equality
of educational opportunity to all.

.

- (v) is based on federal education laws consistent with Montana's constitution and laws; and
- **20-9-331.** Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of **33 mills** on the dollar of the taxable value of all taxable property within the county....for the purposes of elementary equalization and state BASE funding program support. The revenue collected from **this levy must be apportioned** to the support of the elementary BASE funding programs of the school districts in the county and to the **state general fund** in the following manner:
- **20-9-333.** Basic county tax for high school equalization and other revenue for county equalization of high school BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of **22 mills** on the dollar of the taxable value of all taxable property within the county, for the purposes of high school equalization and state BASE funding program support. The revenue collected from **this levy must be apportioned** to the support of the BASE funding programs of high school districts in the county and to the **state general fund** in the following manner:
- **20-9-360. State equalization aid levy.** Subject to <u>15-10-420</u>, there is a levy of **40 mills** imposed by the county commissioners of each county on all taxable property within the state. Proceeds of the **levy must be remitted to the department of revenue**, as provided in <u>15-1-504</u>, and must be deposited to the credit of the **state general fund** for state equalization aid to the public schools of Montana.

The City of Billings is denied the power to affect schools which this TIF expansion would do. MCA: **7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from exercising the following:

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

It appears that the DOR must agree that TIF's affect schools and that power has been denied MCA 7-1-111(3), HB 114, 2015 MT. Leg. Session

HOUSE BILL NO. 114 INTRODUCED BY M. MILLER BY REQUEST OF THE DEPARTMENT OF REVENUE

AN ACT CLARIFYING LAWS RELATED TO THE USAGE OF TAX INCREMENT REMITTANCES TO SCHOOL DISTRICTS TO ENSURE A REDUCTION IN LOCAL PROPERTY TAXES; PROVIDING A TRANSITION SECTION FOR A SCHOOL DISTRICT WITH AN EXISTING AGREEMENT WITH A LOCAL GOVERNMENT; PROVIDING A TIME PERIOD FOR A SCHOOL DISTRICT TO UTILIZE TAX INCREMENT REMITTANCES; AMENDING SECTIONS 7-15-4291, 20-9-104, AND 20-9-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

5. The teacher retirement mills assessed by the county commissioners are **actuarially required contributions**, in other words, the taxpayer or employer's retirement fund **obligation** match for those teacher's. The City of Billings is denied the power to affect the retirement system.

MCA: **7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from exercising the following:

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

Section 15. Public retirement system assets. (1) Public retirement systems shall be funded on an actuarially sound basis. Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses.

6. The university 6 mills are **not** diverted into a TIF district but the Community Collage Mills are, it would appear to me the constitution and state law should protect the Community Collage Mills, "from whatever source accruing" an accruing source of revenue would be the mills assessed by the Yellowstone county commissioners?

Section 10. State university funds. The funds of the Montana university system and of all other state institutions of learning, **from whatever source accruing**, shall forever remain inviolate and sacred to the purpose for which they were dedicated.

20-9-212. Duties of county treasurer. The county treasurer of each county:

- (1) must receive and shall hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts that are entitled to a portion of the money according to the apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:
 - (a) the basic county tax for elementary equalization;
 - (b) the basic county tax for high school equalization;
 - (c) the county tax in support of the transportation schedules;
- (d) the county tax in support of the elementary and high school district retirement obligations; and
- (e) any other county tax for schools, including the community colleges, that may be authorized by law and levied by the county commissioners.

I would ask that you address the questions before approving the City of Billings TIF application.

If you chose to approve this without addressing the concerns please inform me immediately of the DOR' approval.

Kevin Nelson

PO Box 23107 Billings Mt. 59104 406-855-5700 59101geo@gmail.com March 30, 2012

Montana Dept. of Revenue PO Box 7701 Helena Mt. 59604

Dear Director Bucks

This concern is that the tax system of Montana may have been violated. In August of 2009 the State of Montana Board of Investment along with Big Sky Economic Development Authority (BESDA) provided a loan of money for Cabela's in Billings Montana to construct a parking lot.

The loan was termed or titled "Public Improvement Use Fee Agreement" this parking lot is located on private property under the term of the contract Page 14 7.2 Title. "title to the public improvement shall be exclusively to BESEDA" this property has never been transfer to BESEDA and the taxpayer has no security for this investment.

The loan requires "basic sector" Exhibit F; F-1
Who determines if (5) (a) and (b) have been complied with?

The agreement allows for the deduction of the lease payment from their Montana tax obligations and after the loan is repaid the Public improvement is then bought for a one dollar. This lease agreement appears to well outside of the lines of a tax shelter program. The ability to deduct the entire cost of the parking lot (the land and the improvements) and then buy it for one dollar there is more value than one dollar. This type of a program appears to be similar in nature to a tax shelter in the 1970's or 80's when a major agriculture tractor manufacture tried this, the IRS termed this not to be legitimate because there was more value in the tractor than one dollar.

This appears to be a violation 2011 Biennium Goals and Objectives: Goal 4: Objective 1. The proper allocation and reporting of income associated with taxpayers involved in abusive tax shelters.

Investigate this matter and recover for the State of Montana taxes that may have been diverted.

Thank You

Kevin Nelsor

PB Box 23107___

Billings Mt. 59104

Cc: RTC; Mt. of Investment; Yellowstone County Commissioners; BSEDA

PUBLIC IMPROVEMENTS USE FEE AGREEMENT

THIS PUBLIC IMPROVEMENTS USE FEE AGREEMENT, dated as of August 11, 2009, between BIG SKY ECONOMIC DEVELOPMENT AUTHORITY, a duly organized and existing local port authority under the laws of the State of Montana (as hereinafter defined, "BSEDA"), and CABELA'S WHOLESALE, INC., a Nebraska corporation (as hereinafter defined, the "Company").

WITNESSETH:

WHEREAS, the Board of County Commissioners of Yellowstone County, Montana (the "County"), by Resolution No. 89-82 adopted December 4, 1989, as amended from time to time, created BSEDA (formerly known as the Montana Tradeport Authority), a public body, corporate and politic, pursuant to and in accordance with Title 7, Chapter 14, Part 11, Montana Code Annotated, as amended (the "Port Authority Act"); and

WHEREAS, the Port Authority Act authorizes BSEDA to plan, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect transportation, storage or other facilities, and authorizes BSEDA to purchase, lease or otherwise acquire real or personal property or any interest in property, including easements, for such purposes; and

WHEREAS, the Port Authority Act authorizes BSEDA to borrow money and issue bonds for any of its corporate purposes, and to accept, receive and spend federal or state money made available by grant or loan to accomplish any of its purposes; and

WHEREAS, Montana Code Annotated §§ 17-6-309 and 17-6-316 (the "Board of Investments Loan Act") authorizes the Board of Investments of the State of Montana (the "Board of Investments") to make a loan to a local government entity for the purpose of financing infrastructure improvements to enhance economic development and create jobs in the basic sector of the economy, if the loan will result in the creation or expansion of a business estimated to employ at least 15 people in Montana on a permanent, full-time basis and further authorizes such local government entity to charge infrastructure use fees and to pledge such fees to the repayment of such loan; and

WHEREAS, the Company proposes to undertake the construction, installation and operation of a Cabela's retail store and facility (the "Project") in the City of Billings (the "City"), Yellowstone County, Montana, as further provided herein; and

WHEREAS, BSEDA proposes to undertake the construction and installation of certain public improvements associated with an off-parking facility and other related public infrastructure improvements at the Project (the "Public Improvements"), which are to be located upon an easement granted by the Company to BSEDA pursuant to an agreement to be executed concurrently herewith (the "Easement Agreement"); and

Improvements Use Fees to be paid by the Company in accordance with the provisions of the Guaranty.

6.2. <u>Delivery</u>. The Guaranty shall be delivered to the Board of Investments simultaneously with the execution and delivery of this Agreement.

SECTION 7. AGREEMENTS IN RESPECT OF PUBLIC IMPROVEMENTS.

- Improvements. If the Company at any time fully performs its obligations hereunder and pays the full amount of Public Improvements Use Fees provided herein, then upon termination of this Agreement BSEDA shall terminate the Easement Agreement upon which the Public Improvements are located. In addition to terminating the Easement Agreement, BSEDA shall transfer and convey all of its right, title and interest in and to the Public Improvements to the Company for the Purchase Price stated below. At the time of executing this Agreement, BSEDA shall execute such instruments necessary for terminating the Easement Agreement and conveying the Public Improvements, and BSEDA shall deposit the same in escrow with American Title & Escrow Company of Billings, Montana, with instructions for their release upon verification from BSEDA and the Board that the Company has fully discharged its Public Improvements Use Fees and other obligations hereunder. All escrow fees and costs shall be paid by the Company.
- 7.2. Purchase Price. The purchase price for the Public Improvements and for termination of the Easement Agreement shall be the total amount of all the Company's payments and prepayments to BSEDA and/or the Board of Investments under and pursuant to this Agreement, plus One Dollar (\$1.00), provided that such payments equal or exceed the total principal amount of the Board Loan, together with all accrued interest thereon, and all other sums payable thereunder and under this Agreement. Upon payment of the foregoing sum (the "Purchase Price"), the Easement Agreement in favor of BSEDA shall be terminated, and the Public Improvements shall be conveyed to the Company.
- has fully performed its obligations hereunder, title to the Public Improvements shall be exclusively in BSEDA; provided, however, that so long as the Company performs its obligations under this Agreement and no Event of Default has occurred and is continuing beyond the curative periods provided herein, BSEDA shall not restrict the Company's or the Guarantor's access to the Public Improvements.
- 7.4. Encumbrances. During the term of this Agreement, the Company shall take no action that would encumber the right, title and interest of BSEDA to the Public Improvements, unless specifically allowed or permitted by BSEDA in a writing.
- 7.5. Repair and Maintenance. The Company shall, during the term hereof, at its own expense, keep the Public Improvements in a high standard of repair. The Company shall provide for the appropriate maintenance of all landscaping improvements; and all lawns, trees, shrubs and other vegetation associated therewith shall be kept mowed, trimmed, disease-free, and watered as

EXHIBIT F

FORM OF JOB CREDIT CERTIFICATE

Cabela's Wholesale, Inc. (the "Company"), by and through its Senior Real Estate Director hereby certifies with respect to the \$691,639.00 Infrastructure Loan made by the Board of Investments to the Big Sky Economic Development Authority (the "Loan") as follows:

- (1) As of the date hereof, the Company has hired and currently employs at least fifty-two (52) persons for permanent full-time employment in compliance with 17-6-311(4), M.C.A. which requires that an infrastructure loan may not exceed \$16,666 per job.
- In certifying as to full-time employment, we understand that the term full-time means an employee, who is scheduled to work full-time (i.e., a minimum of 35 to 40 hours per week) for an indefinite period of time.
- (3) All of the employees referred to in the attached Job Credit Interest Rate Reduction Analysis (the "Schedule") are paid at the rates of pay shown on the Schedule, which rates are at or above the minimum wage.
- (4) None of the employees referred to in the Schedule have been included in Job Credit Certificate previously filed or submitted.
- (5) As of the date hereof, the creation of at least fifty (50) jobs are in the basic sector of the economy, with "basic sector" defined by the Board of Investments as:
 - (a) Business activity conducted in the state that produces goods and services for which 50% or more of the Gross Revenues are derived from out-of-state sources; or
 - (b) Business activity conducted in-state that produces goods and services, 50% or more of which will be purchased by in-state residents in lieu of like or similar goods and services which would otherwise be purchased from out-of-state sources.
 - (6) Pursuant to this Certificate, the Company requests an interest rate reduction of 2.5% of the Loan.

Dated effective this 11th day of August, 2009.

Cabe	la's Wholesale, Inc.	
By:		F 2
J	Mark Nienhueser,	

EXHIBIT D

DESCRIPTION OF PUBLIC IMPROVEMENTS

The Public Improvements include, without limitation, an off-street parking facility with concrete curb and gutter and asphalt surfaces, parking facility lighting, electrical and power service, pedestrian areas and sidewalks, and extensive landscaping improvements. The Public Improvements will be located within the Easement Area on the Land and such improvements will be titled in Grantee during the term of this Agreement.



Search the CEE

Browse the 1st edition CEE

by title

by author

by category

Biographies

Browse the 2nd edition CEE

by title

by author

by category

Biographies

About the CEE

Frequently Asked Questions

FAQs about Searching CEE

Econlib Resources

About Econlib
Contact Econlib
Quote of the Day
Birthdays & Commemorations
Frequently Asked Questions
Get Econlib Newsletter

Full Site ∨		÷
-------------	--	---

Articles

EconLog

EconTalk

Books

Encyclopedia

Guides

es Search

Search CEE



THE CONCISE ENCYCLOPEDIA OF ECONOMICS Redistribution of Income

by Dwight R. Lee About the Author

Home | CEE | 1st edition | Redistribution of Income

[An updated version of this article can be found at **Redistribution of Income** in the 2nd edition.]

ince the Great Depression most Americans have agreed that a principal responsibility of government is to redistribute income from the well-to-do to the impoverished and to those who are temporarily disadvantaged, most notably the unemployed. While many people complain about waste, fraud, and abuse in government income-transfer programs, or about the extent of income redistribution, few dispute the proposition that some level of redistribution is needed. Over the last twenty years, however, many economists-including some on the political left-have raised serious questions about the effectiveness of current transfer programs in helping the poor. While government policies do redistribute enormous amounts of money each year, the actual benefits to the poor may be much smaller than people presume.

Most people, of course, are certain that the government helps the poor by transferring income to them. Almost without exception academic studies and journalistic accounts of government's effect on the well-being of the poor focus exclusively on the effectiveness of transfer programs designed to redistribute income only to those in need. The fact that some government programs do indeed help the poor is taken as sufficient evidence that government helps the poor. But to know whether the net impact of all government transfer policies is really to help the poor, we need to examine government's many other transfer programs.

Such an examination quickly yields a striking fact: most redistribution by government is not from the rich to the poor. Instead, government takes from the relatively unorganized (e.g., the general taxpayer) and transfers to the relatively organized (lobbying groups with common interests or characteristics, such as the elderly and farmers). Moreover, the most important factor in determining the pattern of redistribution appears to be political power, not need. Of the more than \$500 billion a year spent on public assistance and social insurance programs, only about 25 percent is allocated through means-tested programs. The other 75 percent-more than \$400 billion a year-gets distributed regardless of need. Social Security payments shift approximately \$270 billion of income a year to the elderly regardless of their wealth, and on average the elderly possess about twice the net worth per family as does the general population. And because qualifying for Medicare requires only that one be 65 or older, most of the

PRINT
EMAIL
CITE
COPYRIGHT
SHARE

Related Material on Econlib:

Agricultural Price Supports



EDA · EDC CREATING MONTANA BUSINESS OPPORTUNITIES

May 30, 2012

Mr. Kevin Nelson P.O. Box 23107 Billings, Montana 59104

RE: March 30, 2012 Letter to Montana Department of Revenue—Concerns Regarding Cabela's Loan/Agreements

Dear Mr. Nelson:

As you may recall, Big Sky Economic Development Authority ("BSEDA") was copied with your letter to the Montana Department of Revenue dated March 30, 2012. In that letter you expressed concern regarding the infrastructure loan extended to facilitate the construction and installation of certain public improvements for the Cabela's retail store and facility in Billings, Montana (the "Cabela's Project"). Because BSEDA participates in the infrastructure loan program, we believe it would be helpful to provide an explanation of the structure and basis of the infrastructure loan program related to the Cabela's Project. The infrastructure loan program run by the Board of Investments of the State of Montana ("MBOI") is an important economic development tool, but it takes some study of the manner in which these types of loans are structured and statutorily authorized to understand how they work in meeting economic development goals.

By way of background, BSEDA is a public body created by the Board of County Commissioners of Yellowstone County in accordance with the Port Authority Act, codified at Mont. Code Ann. §7-14-1101, et seq., and which authorizes BSEDA to borrow money and to acquire real property or any interest in property, including easements, for economic development purposes. Therefore, BSEDA is deemed to be a local governmental entity. The Board of Investments Loan Act, codified at Mont. Code Ann. §§ 17-6-309 and 17-6-316, authorizes the MBOI to make a loan to a local government entity for the purpose of financing infrastructure improvements to enhance economic development. The Board of Investments Loan Act authorizes the local government entity to charge infrastructure use fees and to pledge such fees to the repayment of such loan.

As you are aware, Cabela's Wholesale, Inc. ("Cabela's") constructed the Cabela's Project. In relation to the Cabela's Project, BSEDA constructed and installed certain public improvements associated with the off-street parking facility and other related public infrastructure improvements (the "Public Improvements"). The Public Improvements are located on an easement granted by Cabela's to BSEDA pursuant to an Easement Agreement recorded in the real property records of Yellowstone County, Montana, on August 14, 2009, as Document No. 3520144 (the "Easement Agreement"). The Public Improvements are indeed public, as the Easement Agreement states:

"The parties further acknowledge and agree that this easement and servitude is not exclusive, and that [BSEDA] will construct or cause to be constructed the Public Improvements for the use and benefit of [Cabela's], as well as for the use and benefit of [BSEDA] and members of the general public."

GRANITE TOWER 222 NORTH 32ND ST. SUITE 200 BILLINGS. MT 59101-1948

P 406.256.6871 F 406.256.6877 To finance the Public Improvements and to encourage the location and development of the Cabela's Project in Billings, BSEDA borrowed funds from the MBOI (the "Board Loan"). The Board Loan is being repaid solely from infrastructure use fees payable by Cabela's to BSEDA pursuant to the Public Improvements Use Fee Agreement dated August 11, 2009 between BSEDA and Cabela's (the "Use Fee Agreement"). The use fees under the Use Fee Agreement are equal to BSEDA's payments to MBOI under the Promissory Note (the "Note") evidencing the Board Loan. Once Cabela's satisfies all of its obligations under the Use Fee Agreement (which would also mean the Note has been paid in full), the Easement Agreement automatically terminates. Alternatively, the Easement Agreement also provides Cabela's with an option to purchase the Public Improvements at any time upon Cabela's tendering the total amount of all Cabela's payments and prepayments to BSEDA under the Use Fee Agreement, plus One Dollar (\$1.00), not to exceed the then outstanding amount of the Board Loan. Thus, Cabela's does not have the option to purchase the Public Improvements for one dollar (\$1.00). Instead, it is paying for the Public Improvements by virtue of its payment of use fees to BSEDA under the Use Fee Agreement, which, in turn BSEDA has pledged to repay the Board Loan.

You have also inquired about the component of MBOI infrastructure loans regarding the determination of basic sector jobs created. This determination is the responsibility of the MBOI, which undertakes a certification process at various intervals to ascertain the number of basic sector jobs created by virtue of the Cabela's Project. Based upon the number of basic sector jobs created, as certified to MBOI, Cabela's is entitled a job credit interest rate reduction on the Board Loan. Regardless, the basic sector job creation only impacts the interest rate, not the validity of the Board Loan itself.

Finally, you have inquired about the Montana income tax credit component of MBOI infrastructure loans. In sum, Cabela's is entitled to a state of Montana income tax credit in the amount of use fees it pays under the Use Fee Agreement. This income tax credit is made available under Mont. Code Ann § 17-6-316.

We believe this response addresses all of the issues raised in your correspondence to the Montana Department of Revenue. Please feel free to contact me directly if you have additional questions or concerns.

Sincerely,

Steve Arveschoug Executive Director

cc: Dan Bucks, Director Montana Department of Revenue Yellowstone County Commissioners Dan Schwarz, Deputy County Attorney, Yellowstone County BSED Board of Directors Jim Tevlin, Controller, BSED Herb Kulow, Montana Board of Investments



WORLD'S FOREMOST OUTFITTER

Hunting · Fishing · Outdoor Gear

May 13, 2008

City of Billings. Montana Ms. Tina Volek, City Manager 210 North 27th Street P.O. Box 1178 Billings, MT 59103

Re: Billings Shopping Center

Dear Ms. Volek:

As you know, Cabela's Retail, Inc. a Nebraska corporation ("Cabela's) is the owner of a certain tract of land located in Billings, Montana as legally described in Exhibit A-1 attached hereto and by this reference made a part hereof, and delineated on Exhibit B (the "Cabela's Tract"). It is intended that the Cabela's Tract will become part of an integrated retail shopping complex. In order for Cabela's to open its store on the Cabela's Tract, it will require certain off-site improvements (the "Off Site Improvements") to be constructed by the City of Billings, Montana (the "City"). The City is unwilling to commence construction of the Off-Site Improvements without a commitment from Cabela's in favor of the City to open a store on the Cabela's Tract.

In order to induce the City to construct the Off-Site Improvements, Cabela's agrees with the City that, subject to "Force Majeure" (as defined below), and substantial completion off-site improvements required for opening, Cabela's shall open for business on the Cabela's Tract on or before June 1, 2009 as a typical Cabela's store containing at least eighty thousand (80,000) square feet of "Floor Area" (as defined below) and under the trade name "Cabela's" or such other trade name as is used to identify substantially all of the retail stores then being operated by Cabela's, fully fixtured, stocked and staffed, with Cabela's permanent storefront and entranceway fully completed and Cabela's exterior sign installed and operating.

The term "Force Majeure" shall mean any act of God. fire, earth movement, hurricane, flood, explosion, action of the elements, war, invasion, insurrection, acts of terrorism, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions (unless provoked in bad faith violation of any labor laws by the party claiming its obligation or undertaking was prevented or delayed), condemnation, requisition, laws, orders of governmental or civil or military or naval authorities, or any other cause, similar to the foregoing, not within the control of such party, provided, however. Force Majeure shall not include lack of funds or inability to obtain financing.

The term "Floor Area" shall mean the total number of square feet of floor area within the building to be located on the Cabela's Tract, measured from the exterior faces of all exterior walls, service corridor and fire walls, and from the center line of the common demising walls separating the



Joint Board Meeting

Minutes of October 11, 2007

EDC Board Members Present:

Butch Bratsky, Jim Wertman, Todd Sherman, Harrison Fagg, Marilyn Floberg, Michael Foster, Steve Nitz, Rick Reid, Jim Reno, Susan Riplett, Jim Walker John

Whitman

EDC Board Members Absent:

All Present

EDA Board Members Present:

Debbie Singer, Ted White - by phone, Greg Hardy, Ron Sexton, Patrice Elliott, Jim

Gallup, Tom Llewellyn, Monica Lindeen, Pat Kimmet and Ex-Officio's Ed

Ulledalen, Jack Copps, and John Ostlund

EDA Board Members Absent:

Steve Corning, Jon Ness and Ex-Officio's Jon Brewer and Vonda Hotchkiss

Staff/Others Present:

Linda Beck, Patty Nordlund, Steve Zeier, Bandon Berger, Jason Porch, Jim Tevlin, Shari Nault, Rebekah Wales, Tom Howard, Chuck Maxwell, Greg Krueger, Kim Barnet, Tanisha Harrison, Michelle Brummett, Jay Bell, Gary Forester, Scott

Turner, Dan Schwarz, Bill Kennedy, Joe McClure, Cheri Galt

Call to order:

Butch Bratsky called the meeting to order at 7:30a.m. with the Pledge of Allegiance.

Amendments to the Agenda

Joe asked that items #V, VI, & VII be moved to the top of today's agenda as a few of the board members need to leave early today.

Public Comment - none

Consent Agenda

There were no changes to the Consent Agenda. Motion to Approve: Jim Wertman Second: John Whitman Motion Carried

Regular Agenda

Request for approval to utilize EDA TransTech land for GE

Motion: Ron Sexton - To have property owned by the Big Sky EDA (also known as Montana Trade Port Authority) located on Hesper Road in Gabel Subdivision, 2nd Filing, Block 1, Lot 6 to be utilized for the development of a new service center facility to be built for leasing to GE Services. Second: Greg Hardy

Motion Carried

Request to construct and lease back to GE a new facility on TransTech land F

Part I -

Motion: Tom Llewellyn - In exchange for GE initially creating 150-200 jobs in Billings MT, Big Sky EDA will build to suit a 40,000 sq ft operations center on its 7 acre lot in TransTech. GE will lease the building for an initial 12 years with an 8 year first renewal option and a 5 year 2nd renewal option. The final lease payments would be determined based on the final Big Sky EDA financing requirements associated with MBOI financing and the cost of constructing the building driven by GE commercial finance supplied specifications/requirements. GE Commercial finance would also pay a land lease fee (as additional rent under

restaurant equipment. Big Sky EDC's portion of financing will be \$51,500 which is approximately 20% of the

Second: Todd Sherman

Motion Carried

RI.F:

Motion: Jim Wertman – to approve and send on to SBA a loan application for Sister, Inc, (4 Sisters Perk & Deli), Worden, MT. Funds are for expansion of existing business including land acquisition, building remodel and purchase of equipment. Big sky EDC's portion of the financing will be for \$36,000, approximately 22% of the overall project.

Second: Jim Reno Motion Carried

Dim Wertman presented 2 specific potential plans to the boards on relocation of the Yellowstone County Sheriff's Office to make room for a new Federal Court House. Kim Barnett noted that GSA personal are in town from Denver today to also view this presentation. Greg Krueger noted that the time line for the DBP funds to be committed is March 8, 2008. These presentations do not commit to any particular plan.

EDC Board Applications

There is one EDC Board opening. This board seat is to complete the term of Chris Dimock whose term runs through December of 2008. Chris has retired and moved out of state. There is a slate of 9 applicants. The Executive Committee recommends to the board the full slate of candidates.

Motion: Jim Wertman – to recommend the full slate of applicants to the Member Investors for election to fill the empty seat on the EDC Board of Directors.

Second: John Whitman

Motion Carried

Butch noted that with so may qualified people who are interested in being on the EDC board perhaps an increase of the number of EDC board members should considered.

Request for Big Sky EDA Board Resolution to submit an application to MBOI for an infrastructure loan on behalf of Cabelas.

Joe noted that we have been in discussion with Cabelas about accessing the MBOI Infrastructure Loan Program. This type of investment loan passes through local government – being Big Sky EDA. This loan can be used for two things. It can be passed through to a private sector corporation to be use for infrastructure for their new facility or the local government can use those funds to build a facility to lease back to a private sector company. The requirements are that it must be a private sector company with the majority of its revenue coming from outside the state it must create a certain number of jobs.

This type of loan is similar to the loan with Well Fargo and also with CTA. Big Sky EDA acted as a pass through facility to those companies.

Motion: Patrice Elliott- to create a resolution relating to a loan of \$866,632 from the Montana Board of Investments under the infrastructure Loan Program to assist Cabelas Inc. and authorize the execution and delivery of a loan agreement promissory note, infrastructure use fee agreement and related documents to evidence and secure the Loan.

Second: Ron Sexton Motion Carried

Request for approval of funds to match a grant from the U.S. Department of Commerce to pay for a Master Plan for the East End TIFD.

Joe reported that as the East End TIFD is coming together, the one thing that is missing at this point is a way to pay for the framework plan. The cost is approximately \$300,000. We have put in pre-application to the Department of Commerce Economic Development Administration. They have indicated a positive response to that application with a dollar for dollar match. They have indicated that they would provide up to \$150,000 provided we also match with \$150,000. At this time we almost have that match and have commitments for the



From: Kulow, Herb

Sent: Tuesday, August 19, 2008 2:03 PM

To: 'Steven Krajewski' Subject: RE: Cabela's FTE

Attachments: Cabela's jobs.doc

Steve.

I don't know if you got the last email I sent. By mail box was full and I had to clean out the junk. So if I did send it, you now have two.

1 @ \$65,000 = 2 job credits 4 @ \$50,000 = 7 job credits (4 x 1.75) 4 @ \$35,000 = 5 job credits (4 x 1.25) 55 @ 9.25/In 27.5 Job 85 Part time 41.5 Total 149 potential Warm bodies

1 only did one at \$19,240, which came up with 0.50 persons. I then divided 55 by 2 to arrive at 27.5 job credits.

In total I come up with 41.5 jobs that can be applied to calculating the size of the infrastructure loan. I have arrived at \$691,639 (41.5 x \$16,666) as the maximum size of the infrastructure loan using the estimated jobs to be created. This gives NO credit for any of the potential 85 part time employees. If any of the part time employees earn more than \$13,624 on an annualized basis then they would count for 0.25 job credits. I think you should do some investigating as to the projected earnings of your part time employees. It is not so easy as to take the total monies allocated for part time help and divide by \$31,426. Each person is considered individually, as can be seen on the attached worksheet.

Call if you have any questions.

Herbert J. C. Kulow, MCMB Senior Portfolio Manager

Montana Board of Investments 2401 Colonial Drive 3rd Floor Helena, MT 59620 406-444-1218 (direct line) 406-449-6579 (fax)

From: Steven Krajewski [mailto:Steven.Krajewski@cabelas.com]

Sent: Monday, August 04, 2008 4:11 PM

To: Kulow, Herb; Rebekah Wales

Cc: Josh Watchorn; Chuck Bera; Rivera, Nancy

Subject: RE: Cabela's FTE

Herb.

When I used the numbers I provided in the spread sheet you provided I came up with 53.25 jobs for a loan of \$887,465. This is because, as I understand it, the 55 full time at \$19,240 are only earning 61% (rounded to 75%) of the \$31,426 required for one FTE, therefore the 55 FTE's only count for 41.25 FTE's.

I am doing something wrong in the spreadsheet?

Steven Krajewski Real Estate Site Acquisition Manager Cabela's Ventures, Inc. One Cabela Drive Sidney, NE 69160

MONTANA BOARD OF INVESTMENTS

Department of Commerce

Street Address: 2401 Colonial Drive, 3rd Floor Helena, MT 59601

Mailing Address: P.O. Box 200126 Helena, MT 59620-0126



Phone: 406/444-0001 Facsimile; 406/449-6579 Rateline: 406/444-3557 Website: www.investmentmt.com

January 14, 2011

Steve Arveschoug, Executive Director Big Sky Economic Development Authority 222 North 32nd Street, Suite 200 Billings, MT 59101

Re:

Big Sky Economic Development Infrastructure Loan 724 – 8949

Dear Mr. Arveschoug:

Section 17-6-316 (3), MCA, states "a business that is created or expanded as the result of a loan made pursuant to 17-6-309 (2), MCA and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of the tax credit claimed may not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years."

In accordance with the above provision, the principal and interest paid, by calendar year, on the above infrastructure loan, is listed below:

<u>Year</u>	Interest	<u>Principal</u>	Total
2010	\$ 44,771.78	\$ 11,514.83	\$ 56,286.61

If you need further information please contact Herb Kulow, Senior Portfolio Manager, Infrastructure Loan Program at 406-444-1218 (email: https://link.gov).

Sincerely,

Gayle Moon

Accounting Fiscal Manager

cc:

Herb Kulow, Board of Investments

Brian Staley, Corporation Tax, Montana Department of Revenue

Jim Tevlin, Controller, Big Sky Development Authority Cabela's; Jeff Ellwanger; 1 Cabela Dr; Sidney, NE 69601 Cabela's; Tim Meier; 1 Cabela Dr; Sidney, NE 69601

RISK FACTORS

Any investment in our common stock involves a high degree of risk. You should consider carefully the risks described below and all of the information contained in this prospectus before deciding whether to purchase our common stock. If any of the following risks actually occur, our business, financial condition and results of operations could suffer significantly. As a result, the trading price of our common stock could decline, and you may lose all or part of your investment in our common stock.

Risks Related to Our Merchandising Business

If we cannot successfully implement our destination retail store expansion strategy, our growth and profitability would be adversely impacted.

Since January 1, 1998, we have increased the number of our destination retail stores from two, totaling 124,000 square feet, to nine, totaling 1,141,000 square feet. We currently plan to open a 175,000 square foot destination retail store in Wheeling, West Virginia in 2004 and two additional destination retail stores by December 2005. Our ability to open new destination retail stores in a timely manner and operate them profitably will depend on a number of factors, many of which are beyond our control, including:

- · our ability to manage the financial and operational aspects of our retail growth strategy;
- our ability to identify suitable locations, including our ability to gather and assess demographic and marketing data to determine consumer demand for our products in the locations we select;
- our ability to negotiate economic development packages with local and state governments where our new destination retail stores would be located;
- our ability to properly assess the implications of economic development packages and customer density to
 project the profitability of potential new destination retail store locations;
- · our ability to secure required governmental permits and approvals;
- · our ability to hire and train skilled store operating personnel, especially management personnel;
- the availability of construction materials and labor and the absence of significant construction delays or cost overruns;
- our ability to provide a satisfactory mix of merchandise that is responsive to the needs of our customers living
 in the areas where new destination retail stores are built;
- · our ability to supply new destination retail stores with inventory in a timely manner;
- our competitors building or leasing stores near our destination retail stores or in locations we have identified as targets for a new destination retail store;
- general economic and business conditions affecting consumer confidence and spending and the overall strength of our business; and
- the availability of financing on favorable terms.

We may not be able to sustain the growth in the number of our destination retail stores, the revenue growth historically achieved by our destination retail stores or to maintain consistent levels of profitability in our retail business, particularly as we expand into markets now served by other large-format sporting goods retailers and mass merchandisers. In particular, new destination retail stores typically generate lower operating margins because preopening costs are fully expensed in the year of opening and because fixed costs, as a percentage of sales, are higher. In addition, the substantial management time and resources which our destination retail store expansion strategy requires may result in disruption to our existing business operations which may harm our profitability.

Cabelair.

0020205223

INVOICE # DATE GROSS AMT DISC CHECK #205223 NET AMT
1/12/11 4,938.11 .00 4,938.11
4,938.11 .00 4,938.11

ihisado'gumenirhas:axcoloredzbagkgroundzvoidzeeaturesvandzmichozerinieoniercinie



USbank.

Havre, Montana 59501 24 Hour Banking 1-800-673-3555 93-455 929 0020205223

VOID AFTER 1 YEAR FROM ISSUE DATE

PAY

*****Four Thousand Nine Hundred Thirty-Eight Dollars and Eleven Cents

DATE

CHECK AMOUNT

TO THE ORDER OF

81231 BIG SKY ECONOMIC DEV AUTHORITY

222 N 32ND ST

STE 200

BILLINGS

59101

01/21/11

\$**********4,938.11

James W. Cabela

UTHORIZED SIGNATURE

Kulow, Herb

From:

Kulow, Herb

Sent:

Monday, January 11, 2010 9:26 AM

To: Cc: 'nordlund@bigskyeda.org' tevlin@bigskyeda.org

Subject:

iob credits

Attachments:

Cabela's job credit.xls; cabela's job credit worksheet.xls; Revised amortization schedule

Cabela's after adding \$35,000 advance.xls

Patty,

The first attached spreadsheet has a password. Do you know what the password is? I sure don't.

I also have a second spreadsheet that initially shows the creation of 27.75 jobs. This was not originated by us. If you scroll down to line 470 you will see that the preparer of this report used the wrong initial interest rate. They used 8.50% when in fact it was 8.055%. When you deduct the interest credit for 28 (I don't normally round off this number) jobs (1.3875%) from 8.50% you would get 7.1125%, the interest rate that was used on Rebekah original amortization. The interest rate should have been 6.6675%. This appears to have resulted in an overpayment of interest by Cabela's of approximately \$823.00 from September 1, 2009 through the January 1, 2010 payment. I am using the payment amount supplied to me by Rebekah on her first amortization of \$4,688.22 at 7.1125%. I calculated the payment should have been \$4,523.62 using 6.6675% That difference is \$164.60/month and for 5 months results in an overpayment of interest of \$823.00, which of course means the principal is overstated by a like amount. I would suggest we change the past payments to reflect what it should have been. That would also mean that the current amortization I have attached will have to be revised again and is incorrect. What is your pleasure? (What a way to start off with your new responsibility)

The new amortization schedule I have attached, as the third attachment, reflects the correct interest rate of 6.6675%. (but if we refund the overpayment of interest is also incorrect)

Cabela's can submit additional "job creation interest rate reduction" requests, however I would not accept a request that includes peak employment, like the Christmas Holidays. Cabela's initially submitted estimated employment to be 41.5 jobs.

Call if you want. I typed this so I have some documentation as to our discussion.

Herbert J. C. Kulow, MCMB Senior Portfolio Manager

Montana Board of Investments 2401 Colonial Drive 3rd Floor Helena, MT 59620 406-444-1218 (direct line) 406-449-6579 (fax) Here some information that that clearly points out that the city of billings is just capturing tax revenue:

City Council Agenda Item 5: October 10 2006

"It is important that the district be expanded this calendar year in order to take advantage of the relatively low base taxable value. Taxable value in the proposed district is expected to **increase next year** because a number of properties have changed ownership and property investments **will occur that will increase the taxable value**, which creates the increment that will be important for financing future public improvements."

City Council Agenda Item 4: November 24, 2008

"It is important that the district be expanded this calendar year in order to take advantage of the property improvements that have taken place in 2008 and the resulting higher taxable value. It is that increase in taxable value that produces the tax increment that is needed to complete the public improvements"

Meeting Minutes of Billings City Council in creating the Tax Increment District for Cabela's:

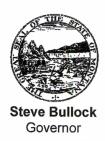
"He said (Dave Munford) the intention of the agreement was for the TIFD to pay the King Avenue East project back so the City would be made whole. He noted that Public Works could not fund those large projects on its own and borrowed against Solid Waste reserves to fund the King Avenue West project which impact the ability to build arterials. He said the reality was that with both projects, they tried to be **innovative** to build the needed roads with limited resources."

Is seems to me that when one taxing entity can take taxing revenues from other taxing entities, this just causes the other entities to just float their mills higher to get the needed revenue. A few benefit at the expense of the rest. This is evident by two Dept of Revenue studies

Yellowstone County will lose \$146,221.24 from TIFD's this year.



Montana Department of Revenue



November 25, 2015

Kevin Nelson PO Box 23107 Billings, MT 59104

Mr. Nelson,

Below is a response to several questions regarding the Billings Downtown TIF that you had raised at the last Revenue and Transportation Interim Committee:

- Federal Courthouse the new courthouse was built in 2011, splits two levy districts (2T3 and 2T3A), and it is 100% exempt. The courthouse had a taxable value, however, that contributed to the base in 2008 when it was a Montana-Dakota Utility building.
- How is it possible to have so much value coming from one building? The
 increase in value is a combination of various tax types including centrally
 assessed, real property, and personal property.
- More taxable value assessed in the TIF in 2009 than reported in 2010:

	2009	2010	
Reported COV	510,265	2,741,273	
Recertify Today	871,244	2,537,460*	
Difference	360,979	-203,813	

The following Real/Personal Properties contributed to the 2009-2010 increase:

	2000	7	
	2009	2010	Difference
First Interstate Bank	0	62,047	62,047
Payne West Insurance	0	23,382	23,382
Computers Unlimited	63,559	77,684	14,125
CTA Architects	15,687	33,845	18,158
US Bank	17	15,335	15,318
Zoot Properties LLC	136,714	153,690	16,976
Montana Brewing Co.	0	9,594	9,594
Western Security Bank	15,617	23,903	8,286
McKenna Hotel Investments	324,899	311,004	-13,895
Michael Development	282,002	273,608	-8,394
Misc Properties +/-	2,913,391	3,043,761	130,370
Total Difference	3,751,886	4,027,853	275,967

How do we reach \$3 million today in taxable value?

871,244
1,390,249
275,967
2,537,460

Nelson Page 3

 The following centrally assessed properties contributed to the increase in 2009 and 2010:

	2009	2010	Difference
BNSF	1,167	861	-306
Qwest Corp	0	114,008	114,008
Mid Rivers	33	36	3
MCI Communications	0	358	358
Qwest Comm Corp	0	44,442	44,442
Celloco-Verizon	96,858	131,658	34,800
AT&T Communications	350,107	468,098	117,991
WWC Holdings	0	35,409	35,409
MTPCS-Cellular One	0	2,681	2,681
AT&T Mobility	0	1,040,863	1,040,863
Total:	448,165	1,838,414	1,390,249

^{*}Largest impact in 2010, many of these centrally assessed companies were not identified in this district for 2009.

I hope this information regarding the questions you raised regarding the Billings Downtown TIF at the last Revenue and Transportation Interim Committee is helpful.

Sincerely,

Mike Kadas

Director



Commissioner

Departments

Contacts

Site Map

Home

Detail Property Tax Information

Disclaimer: The tax information was updated on 11/29/2015. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. Pay Taxes Online

Tax ID: A00056 Tax Year: 2010 2008 EXPANDED N 27 ST LIPE

2006 EXTANDED N 27ST URB					
Code	District		1st Half	2nd Half	Total
	2008 EXPANDED N 27 ST URB (Levy	District)	105,932.09 P	105,932.09 P	211,864.18
2T3A	2008 EXPANDED N 27 ST URB		15,680.79 P		
1	BACF BLGS ARTERIAL CONST FEE		252.35 P	252.35 P	504.70
1	BFHS BLGS FIRE HYD REAL		2,416.59 P	2,416.59 P	4,833.18
1	BLSW BILLINGS STORM SEWER		221.20 P	221.20 P	442.40
1	BS#1 BLGS STREET MAINT #1		697.62 P	697.62 P	1,395.24
L259	0259 BLGS LIGHT MAINT		263.62 P	263.62 P	527.24
TIDU	TIDU TID - UNIVERSITY MILLAGE		148.31 P	148.30 P	296.61
		Totals	125,612.57	125,612.55	251,225.12
		Date Paid	11/22/2010	05/23/2011	

Close Window

First interstate BANK



Departments Contacts

Site Map

Detail Property Tax Information

Disclaimer: The tax information was updated on 11/29/2015. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. Pay Taxes Online

> Tax ID: A00056 Tax Year: 2009 2008 EXPANDED N 27 ST URB

Code	District		1st Half	2nd Half	Total
-	2008 EXPANDED N 27 ST URB (Levy	District)	104,929.16 P	104,929.16 P	209,858.32
	2008 EXPANDED N 27 ST URB			14,171.03 P	
1	BACF BLGS ARTERIAL CONST FEE		246.23 P	246.23 P	492.46
BFHS	BFHS BLGS FIRE HYD REAL		2,429.76 P	2,429.76 P	4,859.52
BLSW	BLSW BILLINGS STORM SEWER		221.20 P	221.20 P	442.40
BS#1	BS#1 BLGS STREET MAINT #1		680.61 P	680.61 P	1,361.22
L259	0259 BLGS LIGHT MAINT		263.62 P	263.62 P	527.24
TIDU	TIDU TID - UNIVERSITY MILLAGE		137.65 P	137.64 P	275.29
		Totals	123,079.27	123,079.25	246,158.52
	D	ate Paid	11/23/2009	05/21/2010	

Close Window

First interstale BANK



mmissioners Departments Contacts

Site Map

Detail Property Tax Information

Disclaimer: The tax information was updated on 11/29/2015. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. Pay Taxes Online

> Tax ID: A00795 Tax Year: 2010 2008 EXPANDED N 27 ST URB

Code	District	1st Half	2nd Half	Total
	2008 EXPANDED N 27 ST URB (Levy Distric	t) 13,719.29 P	13,719.29 P	27,438.58
1346	1346 BLGS N BRDWY STREETSCAPE	2,451.84 P	2,400.00 P	4,851.84
2T3A	2008 EXPANDED N 27 ST URB	2,030.72 P	2,030.71 P	4,061.43
4013	4013 BLGS PARK MAINT	615.69 P	615.69 P	1,231.38
BACF	BACF BLGS ARTERIAL CONST FEE	151.41 P	151.41 P	302.82
BFHS	BFHS BLGS FIRE HYD REAL	312.97 P	312.97 P	625.94
BID1	Business Improv Dist 1	2,164.45 P	2,164.45 P	4,328.90
BLGB	BLGB BILLINGS GARBAGE	1,653.00 P	1,653.00 P	3,306.00
BLSW	BLSW BILLINGS STORM SEWER	132.72 P	132.72 P	265.44
BS#1	BS#1 BLGS STREET MAINT #1	418.57 P	418.57 P	837.14
L097	0097 BLGS LIGHT MAINT	920.55 P	920.55 P	1,841.10
TIDU	TIDU TID - UNIVERSITY MILLAGE	19.21 P	19.20 P	38.41
	Total	s 24 590 42	24 538 56	10 129 09

Totals 24,590.42 24,538.56 49,128.98

Date Paid 11/19/2010 04/22/2011

Close Window

northern Locati



Departments Contacts

Site Map

Detail Property Tax Information

Disclaimer: The tax information was updated on 11/29/2015. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. Pay Taxes Online

> Tax ID: A00795 Tax Year: 2009 2008 EXPANDED N 27 ST URB

Code	District	1st Half	2nd Half	Total
	2008 EXPANDED N 27 ST URB (Levy Dis	strict) 14,720.66 P	14,720.64 P	29,441.30
1346	1346 BLGS N BRDWY STREETSCAPE		2,503.58 P	
2T3A	2008 EXPANDED N 27 ST URB	1,988.18 P	1,988.15 P	3,976.33
4013	4013 BLGS PARK MAINT	615.69 P	615.69 P	1,231.38
	BACF BLGS ARTERIAL CONST FEE	147.74 P	147.74 P	295.48
BFHS	BFHS BLGS FIRE HYD REAL	530.35 P	530.35 P	1,060.70
BID1	Business Improv Dist 1	2,470.06 P	2,470.06 P	4,940.12
	BLGB BILLINGS GARBAGE	1,513.50 P	1,513.50 P	3,027.00
BLSW	BLSW BILLINGS STORM SEWER	132.72 P	132.72 P	265.44
BS#1	BS#1 BLGS STREET MAINT #1	408.37 P	408.37 P	816.74
L097	0097 BLGS LIGHT MAINT	992.63 P	992.63 P	1,985.26
TIDU	TIDU TID - UNIVERSITY MILLAGE	19.32 P	19.30 P	38.62
	T	otals 26,104.93	26,042.73	52,147.66

Date Paid 11/27/2009 05/27/2010

Morther Work!

Close Window

http://www.co.yellowstone.mt.gov/gis/csatydet.asp?propid=A00795&lyear=2009